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AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111  
Serial Number: 10/812,596  
Filing Date: March 29, 2004  
Title: TECHNIQUES TO ADAPTIVELY CONTROL FLOW THRESHOLDS

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### REMARKS

Applicant respectfully requests reconsideration of this application in view of the following remarks and the above amendments. This response is believed to fully address all issues raised in the final Office Action mailed July 13, 2007. Furthermore, no new matter is believed to have been introduced hereby.

Claims 1-19 were previously pending. Claims 1, 4-6, 13-15, 17-18 have been amended and claim 20 has been added. Accordingly, claims 1-20 remain pending in this application.

### Abstract and Claim Objections

Objection to the abstract is believed to be moot in light of the above-detailed amendment to the abstract. Also, claim objections are believed to have been fully addressed by claim amendments detailed above.

### 35 USC §§102 and 103 Rejection of the Claims

Claims 1-3, 7-12, 16, and 19 stand rejected under 35 USC § 102(e) as being anticipated by Lay (U.S. Publication No. 2005/0033531).

Claims 4 and 13 were rejected under 35 USC § 103(a) as being unpatentable over Lay (U.S. Publication No. 2005/0033531) in view of Hao (U.S. Publication No. 2003/0172220). Claims 5 and 14 were rejected under 35 USC § 103(a) as being unpatentable over Lay (U.S. Publication No. 2005/0033531). Claims 17 and 18 were rejected under 35 USC § 103(a) as being unpatentable over Lay (U.S. Publication No. 2005/0033531) in view of Erimli et al. (U.S. Patent No. 6,487,212). Claims 6 and 15 were rejected under 35 USC § 103(a) as being unpatentable over Lay (U.S. Publication No. 20050033531) in view of Zimmermann et al. (U.S. Publication No. 2003/0161302).

Each of these rejections is respectfully traversed.

Initially, the Office is respectfully reminded of the requirements of MPEP §2131 that states a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

In particular, the Office has rejected claim 1 stating that:

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For claim 1, Lay discloses a method comprising: determining network parameters (see paragraph 0026; wherein "the resource management measures resource usage of receiving buffers"); determining host interface parameters (see paragraph 0026; wherein "the resource management measures resource usage of destination buffers"); setting a storage threshold capacity of a storage device based on at least one network parameter and at least one host interface parameter (see Figure 2; wherein resource measurement engine control the threshold capacity in the flow control logic); and transmitting a request to stop transmission of traffic to the storage device based the storage device exceeding the storage threshold capacity (see Figure 2; wherein pause on engine transmits a pause frame when exceeding the threshold).

Thus, the Office is relying on paragraph [0026] of Lay to teach the claimed combination of features such as set forth by claim 1, including the claimed determination of network parameters. It appears that the Office is equating "receiving buffers" to the claimed network parameters. Also in rejecting claims 2 and 11, the Office conclusively confirms that the claimed network parameter is considered to be the same as the receiving buffer of Lay.

First, paragraph [0026] is reproduced below for the Office's ease of reference:

[0026] In an embodiment of the invention, the resource measurement engine 200 measures resource usage including port receiving buffers, destination buffers, total resource usage, and/or other factors of the switch 110. Once a certain predetermined congestion status is reached based on a specific port usage and other values, the resource measurement engine 200 communicates with the pause on engine 210, which in turn transmits a pause on packet to the network node or nodes causing the congestion. In an alternative embodiment, the pause on engine 210 can transmit a pause on packet to all network nodes.

As can be seen, there is no teaching by Lay in paragraph [0026] to teach the claimed network parameters. The receiving buffers are associated with Lay's switch and can not be reasonably relied upon to anticipate the claimed network parameters.

Applicant has further distinguished this feature in the new claim 20 which indicates the network parameters correspond to a network (and not a switch) and additionally that the link

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partner is coupled between the network and the storage device whose threshold value is being set.

Accordingly, claim 1 is in condition for allowance.

The remaining independent claims 8 and 16 include similar (though not identical) elements and should be allowable for at least similar reasons as claim 1, as well as the fact that the Office has relied to similar logic to reject these claims.

Also, all pending dependent claims should be allowable for at least similar reasons as their respective independent claims, as well as additional or alternative elements that are recited therein but not shown in the cited prior art.

For example, amended 4 and 13 indicate that the network parameter(s) may comprise a plurality of elements as recited in these claims. Previously, the Office only relied on a teaching by Hao to anticipate one of the listed elements ("maximum frame size of the packets in the traffic"). See, e.g., outstanding Office Action in paragraph 4, pages 6-7. Simple recitation by the Office that Lay teaches "other factors" does not meet the threshold requirements for a prima facie rejections.

Also, amended claims 5 and 14 indicate that the host interface parameter(s) may include the two elements recited. Previously, the Office only relied on a implied teaching by Lay to anticipate one of the listed elements. See, e.g., outstanding Office Action in paragraph 5, pages 7-8. Simple recitation by the Office that Lay teaches "other factors" does not meet the threshold requirements for a prima facie rejections.

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Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (720-840-6740) to facilitate prosecution of this application.

Applicant hereby petitions as well as provides appropriate fees to obtain a one-month extension of the period for responding to the Office action, thereby moving the deadline for response from October 23, 2007, to November 23, 2007.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-4238.

Respectfully submitted,

**CUSTOMER NUMBER: 50890**

Telephone Number: 720-840-6740

Date November 23, 2007

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